Fiscal Note 2009 Biennium

GOVERNOR'S OFFICE OF BUDGET AND PROGRAM PLANNING

Bill #	HB0545		**Title:**	Tax credit for business waste and energy audit cost and implementation
Primary Sponsor:	Phillips, Mike		**Status:**	As Amended in House Committee

- ☐ Significant Local Gov Impact
- ☑ Needs to be included in HB 2
- ☑ Technical Concerns
- ☐ Included in the Executive Budget
- ☐ Significant Long-Term Impacts
- ☐ Dedicated Revenue Form Attached

FISCAL SUMMARY

	FY 2008 Difference	FY 2009 Difference	FY 2010 Difference	FY 2011 Difference
Expenditures:				
General Fund	$62,540	$54,588	$55,953	$57,352
Revenue:				
General Fund	($1,374,688)	($3,574,188)	($3,574,188)	($2,254,488)
Net Impact-General Fund Balance	($1,437,228)	($3,628,776)	($3,630,141)	($2,311,840)

Description of fiscal impact:

This bill provides two energy related tax credits for businesses. One would pay a percentage of the costs of energy audits during 2007 and 2008 for the business' buildings. The other would pay a percentage of the costs of investments to implement the recommendations of an energy audit and could be taken for up to three additional years if the building's energy use continues to decrease. These credits would reduce general fund revenue by $1.4 million in FY 2008, increasing to $3.6 million in FY 2009 and FY 2010, and then decreasing through FY 2013, the last year credits would be taken on tax returns.

FISCAL ANALYSIS

Assumptions:

1. Section 1 of this bill creates a new credit that may be taken against either individual income tax or corporation license tax for the taxpayer's costs of an energy audit on one or more commercial, industrial, or agricultural buildings the taxpayer owns. For 2007 and 2008 (see Technical Note 1), a taxpayer may claim a credit equal to 5% of the audit costs in the year the audit occurs.
2. Section 2 of this bill creates a new credit for the taxpayer's costs of implementing the recommendations of an energy audit meeting the requirements of Section 1. A credit equal to 5% of the taxpayer's cost may be

claimed for investments within one year of the energy audit. In each of the next three years, the taxpayer may take an additional credit equal to 5% of the investment if energy use in the audited building decreased 5% from the previous year.

3. There are 83,000 commercial, industrial, and agricultural buildings that would be eligible for this credit.
4. Usage of the credit will be assumed to be 5.3%, the same as for the existing residential energy conservation investment credit (13,543 households claiming the credit out of 254,458 owner-occupied households estimated by the American Community Survey).
5. Taxpayer's average cost of an energy audit on a commercial building is $2,500. The average energy conservation investment resulting from an energy audit will be $10,000, and these costs will be incurred in the same tax year as the audit costs. These costs are net of any payments from utility or other conservation programs. For 2007 and 2008, credits for audits would be $549,875 (5% x $2,500 x 5.3% x 83,000). Credits for energy saving investments would be $2,199,500 (5% x $10,000 x 5.3% x 83,000).
6. Follow-up credits for taxpayers who have a 5% year-to-year reduction in energy use will be 75% of the initial credits for investments in the first year, 50% in the second year, 30% in the third year, and 20% in the fourth year.
7. For tax year 2007, taxpayers will claim credits of $2,749,375 for costs during the year ($2,199,500 + $549,875).
8. For tax year 2008, taxpayers will claim credits of $2,749,375 for audit and investment costs during 2008 and $1,649,625 for investment costs during 2007 (75% x $2,199,500). Total credits for tax year 2008 will be $4,399,000 ($2,749,375 + $1,649,625).
9. For tax year 2009, taxpayers will claim credits $1,649,625 for costs during 2008, and $1,099,750 for costs during 2007 (50% x $2,199,500). Total credits for tax year 2009 will be $2,749,375 ($1,649,625 + $1,099,750).
10. For tax year 2010, taxpayers will claim credits of $1,099,750 for costs during 2008, and $659,850 for costs during 2007 (30% x $2,199,500). Total credits for tax year 2010 will be $1,759,600 ($1,099,750 + $659,850).
11. For tax year 2011, taxpayers will claim credits of $659,850 for costs during 2008.
12. Credits will be claimed on tax returns filed after the end of each tax year. Taxpayers will claim half of the credits on returns filed in the spring and half on extension returns filed in the fall. General fund revenue will be reduced by $1,374,688 in FY 2008 (1/2 x $2,749,375), $3,574,188 in FY 2009 (1/2 x ($2,749,375 + $4,399,000)), $3,574,188 in FY 2010 (1/2 x ($4,399,000 + $2,749,375)), and $2,254,488 in FY 2011 (1/2 x ($2,749,375 + $1,759,600)).
13. The Department of Revenue would require one additional tax examiner to process and audit credit claims. Personal services costs would be $48,642 in FY 2008 and FY 2009, increasing by 2.5% per year in subsequent years. Set-up costs for furniture and equipment would be $5,900 in FY 2008. Operating costs in FY 2008 would be $7,998, including $2,500 for designing a new form. Operating costs in FY 2009 would be $5,946 per year, increasing by 2.5% in subsequent years.

	FY 2008 Difference	FY 2009 Difference	FY 2010 Difference	FY 2011 Difference
Fiscal Impact:				
FTE	1.00	1.00	1.00	1.00
Expenditures:				
Personal Services	$48,642	$48,642	$49,858	$51,105
Operating Expenses	$7,998	$5,946	$6,095	$6,247
Equipment	$5,900	$0	$0	$0
TOTAL Expenditures	$62,540	$54,588	$55,953	$57,352
Funding of Expenditures:				
General Fund (01)	$62,540	$54,588	$55,953	$57,352
TOTAL Funding of Exp.	$62,540	$54,588	$55,953	$57,352
Revenues:				
General Fund (01)	($1,374,688)	($3,574,188)	($3,574,188)	($2,254,488)
TOTAL Revenues	($1,374,688)	($3,574,188)	($3,574,188)	($2,254,488)
Net Impact to Fund Balance (Revenue minus Funding of Expenditures):				
General Fund (01)	($1,437,228)	($3,628,776)	($3,630,141)	($2,311,840)

Long-Range Impacts:

1. Credits will be $1,209,725 in FY 2012 (1/2 x ($1,759,600 + $659,850)) and $329,925 in FY 2013 (1/2 x $659,850).

Technical Notes:

1. Section 7 makes Section 1 terminate December 31, 2008. Many corporations have a tax year that is not a calendar year. It would clarify application of this bill to these corporations if Section 6 specified that Section 1 applies to audits and tax years beginning after December 31, 2006 and before January 1, 2009.
2. It is not clear whether a pass-through entity, such as a partnership or S corporation, would be able to claim this credit on behalf of the owners, the owners would be able to claim the credit, or neither. If a pass-through entity or its owners are to be allowed to claim the credit, it is not clear how it is to be allocated among the owners.
3. It appears that taxpayers who claim the credit in this bill could also claim the deduction in 15-32-103, MCA, or the credit in 15-32-109, MCA. If this is not the intent, the bill should say so.
4. Section 2 provides a credit for “equipment and goods purchased to implement an energy audit.” This section would be clearer if the phrase “implement an energy audit” were expanded to “implement the recommendations of an energy audit” wherever it occurs.

Sponsor’s Initials	*Date*	*Budget Director’s Initials*	*Date*